

AMENDED IN ASSEMBLY MAY 2, 2012  
AMENDED IN ASSEMBLY APRIL 19, 2012  
AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2552**

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**Introduced by Assembly Member Torres**

February 24, 2012

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An act to amend ~~Section 11160 of the Penal Code, and to amend and~~ repeal Sections 23152 and 23153 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2552, as amended, Torres. Vehicles: driving under the influence: controlled substances.

~~(1) Existing~~

*Existing* law prohibits a person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, who has 0.08% or more, by weight, of alcohol in his or her blood, or who is addicted to the use of any drug, to drive a vehicle. Existing law also makes it unlawful to drive under the influence and cause bodily injury to another person.

This bill would revise and recast these provisions.

~~(2) Existing law requires a health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient whom he or she knows or reasonably suspects is~~

~~a person suffering from any wound or other physical injury inflicted by his or her own act or inflicted by another where the injury is by means of a firearm, to make a specified written report to a law enforcement agency.~~

~~This bill would require a health practitioner to make this written report to a law enforcement agency when the health practitioner knows or reasonably suspects the person is suffering from any wound or other physical injury inflicted by his or her own act or inflicted by another where the injury is the result of a vehicle accident involving the suspected use of alcohol or drugs.~~

~~By expanding the duties of local public officials the bill would impose a state-mandated local program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes-no.  
State-mandated local program: yes-no.~~

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 11160 of the Penal Code is amended to~~
- 2     ~~read:~~
- 3     ~~11160. (a) A health practitioner employed in a health facility,~~
- 4     ~~clinic, physician's office, local or state public health department,~~
- 5     ~~or a clinic or other type of facility operated by a local or state~~
- 6     ~~public health department who, in his or her professional capacity~~
- 7     ~~or within the scope of his or her employment, provides medical~~
- 8     ~~services for a physical condition to a patient whom he or she knows~~
- 9     ~~or reasonably suspects is a person described as follows, shall~~
- 10    ~~immediately make a report in accordance with subdivision (b):~~
- 11    ~~(1) Any person suffering from any wound or other physical~~
- 12    ~~injury inflicted by his or her own act or inflicted by another where~~
- 13    ~~the injury is by means of a firearm or the result of a vehicle~~
- 14    ~~accident involving the suspected use of alcohol or drugs.~~

1 ~~(2) Any person suffering from any wound or other physical~~  
2 ~~injury inflicted upon the person where the injury is the result of~~  
3 ~~assaultive or abusive conduct.~~

4 ~~(b) A health practitioner employed in a health facility, clinic,~~  
5 ~~physician's office, local or state public health department, or a~~  
6 ~~clinic or other type of facility operated by a local or state public~~  
7 ~~health department shall make a report regarding persons described~~  
8 ~~in subdivision (a) to a local law enforcement agency as follows:~~

9 ~~(1) A report by telephone shall be made immediately or as soon~~  
10 ~~as practically possible.~~

11 ~~(2) A written report shall be prepared on the standard form~~  
12 ~~developed in compliance with paragraph (4) of this subdivision,~~  
13 ~~and Section 11160.2, and adopted by the California Emergency~~  
14 ~~Management Agency, or on a form developed and adopted by~~  
15 ~~another state agency that otherwise fulfills the requirements of the~~  
16 ~~standard form. The completed form shall be sent to a local law~~  
17 ~~enforcement agency within two working days of receiving the~~  
18 ~~information regarding the person.~~

19 ~~(3) A local law enforcement agency shall be notified and a~~  
20 ~~written report shall be prepared and sent pursuant to paragraphs~~  
21 ~~(1) and (2) even if the person who suffered the wound, other injury,~~  
22 ~~or assaultive or abusive conduct has expired, regardless of whether~~  
23 ~~or not the wound, other injury, or assaultive or abusive conduct~~  
24 ~~was a factor contributing to the death, and even if the evidence of~~  
25 ~~the conduct of the perpetrator of the wound, other injury, or~~  
26 ~~assaultive or abusive conduct was discovered during an autopsy.~~

27 ~~(4) The report shall include, but shall not be limited to, all of~~  
28 ~~the following:~~

29 ~~(A) The name of the injured person, if known.~~

30 ~~(B) The injured person's whereabouts.~~

31 ~~(C) The character and extent of the person's injuries.~~

32 ~~(D) The identity of any person the injured person alleges~~  
33 ~~inflicted the wound, other injury, or assaultive or abusive conduct~~  
34 ~~upon the injured person.~~

35 ~~(e) For the purposes of this section, "injury" shall not include~~  
36 ~~any psychological or physical condition brought about solely~~  
37 ~~through the voluntary administration of a narcotic or restricted~~  
38 ~~dangerous drug.~~

39 ~~(d) For the purposes of this section, "assaultive or abusive~~  
40 ~~conduct" shall include any of the following offenses:~~

- 1     ~~(1) Murder, in violation of Section 187.~~
- 2     ~~(2) Manslaughter, in violation of Section 192 or 192.5.~~
- 3     ~~(3) Mayhem, in violation of Section 203.~~
- 4     ~~(4) Aggravated mayhem, in violation of Section 205.~~
- 5     ~~(5) Torture, in violation of Section 206.~~
- 6     ~~(6) Assault with intent to commit mayhem, rape, sodomy, or~~
- 7     ~~oral copulation, in violation of Section 220.~~
- 8     ~~(7) Administering controlled substances or anesthetic to aid in~~
- 9     ~~commission of a felony, in violation of Section 222.~~
- 10    ~~(8) Battery, in violation of Section 242.~~
- 11    ~~(9) Sexual battery, in violation of Section 243.4.~~
- 12    ~~(10) Incest, in violation of Section 285.~~
- 13    ~~(11) Throwing any vitriol, corrosive acid, or caustic chemical~~
- 14    ~~with intent to injure or disfigure, in violation of Section 244.~~
- 15    ~~(12) Assault with a stun gun or taser, in violation of Section~~
- 16    ~~244.5.~~
- 17    ~~(13) Assault with a deadly weapon, firearm, assault weapon, or~~
- 18    ~~machinegun, or by means likely to produce great bodily injury, in~~
- 19    ~~violation of Section 245.~~
- 20    ~~(14) Rape, in violation of Section 261.~~
- 21    ~~(15) Spousal rape, in violation of Section 262.~~
- 22    ~~(16) Procuring any female to have sex with another man, in~~
- 23    ~~violation of Section 266, 266a, 266b, or 266c.~~
- 24    ~~(17) Child abuse or endangerment, in violation of Section 273a~~
- 25    ~~or 273d.~~
- 26    ~~(18) Abuse of spouse or cohabitant, in violation of Section~~
- 27    ~~273.5.~~
- 28    ~~(19) Sodomy, in violation of Section 286.~~
- 29    ~~(20) Lewd and lascivious acts with a child, in violation of~~
- 30    ~~Section 288.~~
- 31    ~~(21) Oral copulation, in violation of Section 288a.~~
- 32    ~~(22) Sexual penetration, in violation of Section 289.~~
- 33    ~~(23) Elder abuse, in violation of Section 368.~~
- 34    ~~(24) An attempt to commit any crime specified in paragraphs~~
- 35    ~~(1) to (23), inclusive.~~
- 36    ~~(e) When two or more persons who are required to report are~~
- 37    ~~present and jointly have knowledge of a known or suspected~~
- 38    ~~instance of violence that is required to be reported pursuant to this~~
- 39    ~~section, and when there is an agreement among these persons to~~
- 40    ~~report as a team, the team may select by mutual agreement a~~

1 member of the team to make a report by telephone and a single  
2 written report, as required by subdivision (b). The written report  
3 shall be signed by the selected member of the reporting team. Any  
4 member who has knowledge that the member designated to report  
5 has failed to do so shall thereafter make the report.

6 (f) ~~The reporting duties under this section are individual, except~~  
7 ~~as provided in subdivision (e).~~

8 (g) ~~A supervisor or administrator shall not impede or inhibit the~~  
9 ~~reporting duties required under this section and a person making~~  
10 ~~a report pursuant to this section shall not be subject to any sanction~~  
11 ~~for making the report. However, internal procedures to facilitate~~  
12 ~~reporting and apprise supervisors and administrators of reports~~  
13 ~~may be established, except that these procedures shall not be~~  
14 ~~inconsistent with this article. The internal procedures shall not~~  
15 ~~require any employee required to make a report under this article~~  
16 ~~to disclose his or her identity to the employer.~~

17 (h) ~~For the purposes of this section, it is the Legislature's intent~~  
18 ~~to avoid duplication of information.~~

19 ~~SEC. 2.~~

20 *SECTION 1.* Section 23152 of the Vehicle Code, as amended  
21 by Section 31 of Chapter 455 of the Statutes of 1995, is amended  
22 to read:

23 23152. (a) (1) It is unlawful for a person who is under the  
24 influence of any alcoholic beverage to drive a vehicle.

25 (2) It is unlawful for a person who is under the influence of any  
26 drug to drive a vehicle.

27 (3) It is unlawful for a person who is under the combined  
28 influence of any alcoholic beverage and drug to drive a vehicle.

29 (b) It is unlawful for a person who has 0.08 percent or more, by  
30 weight, of alcohol in his or her blood to drive a vehicle.

31 (1) For purposes of this article and Section 34501.16, percent,  
32 by weight, of alcohol in a person's blood is based upon grams of  
33 alcohol per 100 milliliters of blood or grams of alcohol per 210  
34 liters of breath.

35 (2) In any prosecution under this subdivision, it is a rebuttable  
36 presumption that the person had 0.08 percent or more, by weight,  
37 of alcohol in his or her blood at the time of driving the vehicle if  
38 the person had 0.08 percent or more, by weight, of alcohol in his  
39 or her blood at the time of the performance of a chemical test  
40 within three hours after the driving.

(c) It is unlawful for a person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

(d) (1) It is unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210.

(2) In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

~~SEC. 3.~~

*SEC. 2.* Section 23152 of the Vehicle Code, as amended by Section 32 of Chapter 455 of the Statutes of 1995, is repealed.

~~SEC. 4.~~

*SEC. 3.* Section 23153 of the Vehicle Code, as amended by Section 18 of Chapter 974 of the Statutes of 1992, is amended to read:

23153. (a) (1) It is unlawful for a person, while under the influence of any alcoholic beverage to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

(2) It is unlawful for a person, while under the influence of any drug, to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

(3) It is unlawful for a person, while under the combined influence of any alcoholic beverage and drug, to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

(b) (1) It is unlawful for a person, while having 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle

1 and concurrently do any act forbidden by law, or neglect any duty  
2 imposed by law in driving the vehicle, which act or neglect  
3 proximately causes bodily injury to any person other than the  
4 driver.

5 (2) In any prosecution under this subdivision, it is a rebuttable  
6 presumption that the person had 0.08 percent or more, by weight,  
7 of alcohol in his or her blood at the time of driving the vehicle if  
8 the person had 0.08 percent or more, by weight, of alcohol in his  
9 or her blood at the time of the performance of a chemical test  
10 within three hours after driving.

11 (c) In proving the person neglected any duty imposed by law  
12 in driving the vehicle, it is not necessary to prove that any specific  
13 section of this code was violated.

14 (d) (1) It is unlawful for a person, while having 0.04 percent  
15 or more, by weight, of alcohol in his or her blood to drive a  
16 commercial motor vehicle, as defined in Section 15210, and  
17 concurrently to do any act forbidden by law or neglect any duty  
18 imposed by law in driving the vehicle, which act or neglect  
19 proximately causes bodily injury to any person other than the  
20 driver.

21 (2) In any prosecution under this subdivision, it is a rebuttable  
22 presumption that the person had 0.04 percent or more, by weight,  
23 of alcohol in his or her blood at the time of driving the vehicle if  
24 the person had 0.04 percent or more, by weight, of alcohol in his  
25 or her blood at the time of performance of a chemical test within  
26 three hours after driving.

27 ~~SEC. 5.~~

28 *SEC. 4.* Section 23153 of the Vehicle Code, as amended by  
29 Section 19 of Chapter 974 of the Statutes of 1992, is repealed.

30 ~~SEC. 6. If the Commission on State Mandates determines that~~  
31 ~~this act contains costs mandated by the state, reimbursement to~~  
32 ~~local agencies and school districts for those costs shall be made~~  
33 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
34 ~~4 of Title 2 of the Government Code.~~